

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Nike, Inc.,

Plaintiff,

-against-

Lululemon USA Inc.,

Defendant.

23-CV-771 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

Three motions to seal are pending before the Court in connection with the parties' motions *in limine*. Dkts. 278, 281, 287. The parties filed responses to these motions on March 28, 2025.

Lululemon's motion at Dkt. 278 requests that portions of its motions *in limine* (at Dkt. 280) be filed under seal. Later, Lululemon explained that the only confidential information it still sought to be sealed is information related to the unconsummated APL deal on page 12, which was not presented at trial. Dkt. 321. The other information sought to be sealed in Dkt. 280 is Nike's confidential information, and Nike's response at Dkt. 322 clarified which portions of Dkt. 280 and Dkt. 280-2 contained confidential information. Applying the three-part test in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006), the motion to seal at Dkt. 278 is GRANTED as to the documents the parties still seek to maintain under seal.

Nike's motion at Dkt. 281 requests that Dkt. 283-4 (Exhibit B to Nike's motions *in limine*) be filed under seal because it contains information that Lululemon designed Attorneys' Eyes Only. Nike now says that Dkt. 283-4 can be fully unsealed. *See* Dkt. 322 at 2 n.3. So Nike's motion at Dkt. 281 is DENIED as moot.

Finally, Nike's motion at Dkt. 287 requests that portions of its opposition to Lululemon's motions *in limine* (at Dkt. 289) be filed under seal because of information Lululemon and third parties have designated as confidential. Lululemon requests that portions of Dkts. 289, 289-3, 289-4, and 289-6 remain under seal. Dkt. 326. And Nike reiterates its request for Dkts. 289 and 289-6 to remain under seal, Dkt. 322 at 2, although it also states that Dkts. 289-2 and 289-8 can be fully unsealed. *Id.* 2 n.3. Applying the *Lugosch* test, the motion to seal at Dkt. 287 is GRANTED as to the documents the parties still seek to maintain under seal and DENIED as moot as to the information the parties agree can be unsealed.

The Clerk of Court is respectfully directed to terminate the motions at Dkts. 278, 281, 287, 323, and 326.

SO ORDERED.

Dated: April 9, 2025
New York, New York

A handwritten signature in black ink, appearing to read 'Arun Subramanian', is written over a horizontal line.

ARUN SUBRAMANIAN
United States District Judge